

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:15-CR-373-3H

UNITED STATES OF AMERICA,

v.

FRANKY HOSTON,  
Defendant.

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**ORDER**

This matter is before the court on defendant's motion to suppress. Following an evidentiary hearing on July 7, 2016, United States Magistrate Judge Robert T. Numbers, II entered a memorandum and recommendation (M&R) on July 11, 2016, recommending denial of the motion. The defendant has objected, and this matter is ripe for adjudication. Under Rule 59(b) of the Federal Rules of Criminal Procedure, a district judge must consider "de novo any objection to the magistrate judge's recommendation."

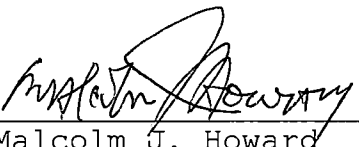
Defendant first objects to the factual recitation regarding the number of firearms the search at issue yielded from defendant's bedroom. The M&R indicates the search yielded, among other things, two firearms. The response to the motion to suppress and the inventory from the search indicate one handgun was found within defendant Hoston's room, not two. The court notes this typographical error in the M&R and also notes that it has no bearing on the legal analysis in the M&R.

Defendant also objects to the legal conclusion in the M&R that there was "nothing present on the date of the search which would have alerted law enforcement that Hoston's bedroom was anything more than one room within a larger home." M&R at 16. Having carefully reviewed this objection and reviewed de novo the findings by the magistrate judge, the court finds the objections to be without merit. The court agrees with the magistrate judge's findings of fact as well as the conclusions of law drawn therefrom.

In addition to reviewing defendant's objections and finding them to be without merit, this court has conducted a full and careful review of the M&R and other documents of record. Having done so, the court hereby finds that the recommendation of the magistrate judge is in accordance with the law and should be approved.

Accordingly, with the exception of the noted discrepancy regarding the number of firearms located in defendant's bedroom, the court hereby adopts the recommendation of the magistrate judge as its own; and, for the reasons stated therein, the defendant's motion to suppress [DE #58] is hereby DENIED.

This 4<sup>th</sup> day of August 2016.

  
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Malcolm J. Howard  
Senior United States District Judge

At Greenville, NC  
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